



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Aleman Food Service, Inc.

**File:** B-223959

**Date:** August 28, 1986

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### **DIGEST**

1. The failure to submit with the bid an affidavit listing affiliated firms as required by the invitation for bids relates to responsibility rather than responsiveness, and, therefore, the information may be submitted after bid opening.
2. Protester's contention that contracting officer should verify affidavits listing affiliated firms concerns bidder responsibility and the depth of investigation necessary to make a determination thereon. These are matters which are primarily within the broad discretion of the contracting officer. Prior to awarding contract, contracting officer must make an affirmative determination of proposed awardee's responsibility; General Accounting Office does not review contracting officer's affirmative determination of responsibility in the absence of conditions not present here.

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### **DECISION**

Aleman Food Service Inc. protests the award of a food services contract by the Department of the Air Force under invitation for bids (IFB) No. F16602-86-B-0028 to any bidder which failed to submit notarized affidavits stating the names and addresses of their affiliated business concerns as required by the IFB. Aleman also contends that where bidders submitted affidavits, the Air Force should verify those documents because "control is many times exercised through Bonding Companies and Banks in the form of guarantees for other companies." The bid opening date was August 5, 1986.

We dismiss this protest.


The Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.201-6(k) (1985), provides that such affidavits are to be obtained when the contracting officer determines that disclosure of affiliated bidders is necessary to prevent practices prejudicial to fair and open competition, such as

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multiple bidding. We have held that where the IFB requires the names and addresses of all affiliates of a bidder, the failure to submit with the bid a list of affiliates raises a question of responsibility rather than responsiveness, and, therefore, the information may properly be submitted after bid opening. Marathon Enterprises, Inc., B-213646, Dec. 14, 1983, 83-2 CPD ¶ 690.

Aleman's contention that the contracting officer should verify the affidavits concerns bidder responsibility and the depth of investigation necessary to make a determination thereon, which are matters primarily within the broad discretion of the contracting officer. See Martin Electronics, Inc., B-221298, Mar. 13, 1986, 86-1 CPD ¶ 252; Carolina Was Systems, Inc., B-215689.3, Jan. 7, 1985, 85-1 CPD ¶ 22. The contracting officer must make an affirmative determination of a bidder's responsibility prior to awarding that bidder a contract. FAR, 48 C.F.R. § 9.103. However, our Office does not review affirmative determinations of responsibility unless there has been a showing that the contracting officer may have acted fraudulently or in bad faith or that definitive responsibility criteria have not been met. Freund Precision, Inc., B-216620, Oct. 23, 1984, 84-2 CPD ¶ 456. Neither exception is applicable here.

The protest is dismissed.

  
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